

Major non-compliance – draft definitions

Developed following previous public consultations and stakeholder engagement (2015/2017)

- To be trialled over 2023/24
- Ongoing sectoral engagement
- Public consultation in 2024

1. Major consequences outside of site (or risk of): conditions set to protect the environment or human health and wellbeing	
Authorisation condition	Major non-compliance
Any authorisation condition	Non-compliance causes: <ul style="list-style-type: none"> • category I or II event • downgrading of annual water or air classification; or • Major adverse trend for groundwater.
Descriptive conditions: no significant oil, foam, litter, noise and odour outside of site.	Non-compliance – causes category I or II event
Numeric single-tier chemistry limits set to achieve environmental standards	More than twice the limit specified in authorisation (if applicable per regime) Exceptions: <ul style="list-style-type: none"> • pH = 2 breaches where limit exceeded by >1 unit • Temperature = 2 breaches where temperature exceeded by >5oC <p><i>Excludes freshwater or marine pen fish farms (covered below) but does apply to land based aquaculture facilities with a point source discharge.</i></p>
Two-tier numeric limits set to achieve environmental standards (set according to a specified statistical distribution).	Any breach of upper-tier limit
Water resources (abstraction)	Abstraction rates exceed limits by more than 20% 25 or more breaches of less than 20% abstraction limit

Water resources (abstraction under drought conditions)	Breach of any temporary restriction on abstraction during a water scarcity event
Water resources mitigation flows (e.g. compensation flows, hands off flows and freshets)	<p>Mitigation flows are less than 80% of the specified flows.</p> <p>25 or more breaches of mitigation flows less than 20% (i.e. between 80-100% of specified flows)</p> <p>Deliberate non-compliance with a mitigation flow</p> <p>Non delivery of freshet where sufficient water resource available.</p>
Authorised medicines and substances used in aquaculture	Any medicine or substance not administered as specified – causing or posing the risk of causing a category I or II event
Limits on biomass, fish production and/or phosphorus discharged in aquaculture.	Exceedance of limits by 10%
	Four or more months exceeding the biomass limit up to and including 10%
Numeric limits for radioactive substances in authorisations and registrations under Environmental Authorisations (Scotland) Regulations 2018 (EASR)	Any exceedance of site limit.
Limit on the amount of waste that can be accepted, stored or treated on a site	Exceeded to the extent that the site is unable to manage the material in an effective manner – causing or posing the risk of causing a category I or II event

2. Scope of site	
Authorisation condition	Major non-compliance
Marine pen fish farm location	Pen group located more than 100m (old framework) or 180m (new framework) from licensed position.
Freshwater pen fish farm location	Fish farm not as specified in licence
Pen fish farm species	Growing a species with a different species factor to that in the licence for marine sites or any different species for freshwater sites.
Impoundment: provision of fish pass and screens	Fish pass or screen either not provided or not operating.
Waste outside the authorised area	Deposition of waste outside the authorised area (e.g. site boundary or in case of landfill, outside lined cells)

3. Understanding of site/activity compromised	
Authorisation condition	Major non-compliance
Requirement to report incidents (either in operation of plant or environmental impacts).	Failure to notify SEPA of an incident that had the potential to cause category I or II event
Requirement to submit routine data (records, report, data)	Failure to make a routine planned data return of adequate quality within three months
Marine pen fish farm surveys	Survey non-compliant, survey inadequate, or survey not undertaken

4. Overall management of site	
Authorisation condition	Major non-compliance
Compliance with authorisation conditions	Repeat condition breaches which cumulatively equate to major non-compliance
Conditions covering management of site, infrastructure, technical competence, equipment or training	Causing or posing the risk of causing a category I or II event
Conditions covering management of hazardous material	Risk of accident – causing or posing the risk of causing a category I or II event
Fallow period at marine pen fish farms	Continuous stocking between growth cycles with no fallow periods.

5. Unauthorised activities	
Contravention	Major non-compliance
Undertaking a regulated activity without authorisation	Undertaking a regulated activity at authorised site without authorisation
Environmental event	<p>Causes a</p> <ul style="list-style-type: none"> • category I or II event; or • downgrading of annual water or air classification; or • Major adverse trend for groundwater. <p><i>*do not need evidence a classification site is downgraded, could rely on modelling to predict area of impact, and/or test if it breaches spatial standards.</i></p> <p><i>Previous guidance to assess major for descriptive conditions = equivalent to a category 1 or 2 environmental event.</i></p>

6. Financial non-compliance	
Contravention	Major non-compliance
Non-payment of subsistence fees	Escalation to debt collection or if debt goes into next financial year